



Australia: Franchising Biannual Newsletter

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08/2007

Welcome!

Welcome to the U.S. Commercial Service's winter issue of the Franchising Update. This biannual newsletter is prepared for the purpose of advising U.S. Franchisors of the developments and opportunities in the Australian Franchise Industry.

Franchising in Australia represents a dynamic small business sector contributing some 14% of the national GDP of Australia. It comprises enterprising entrepreneurs as franchisors and franchisees employing some 600,000 Australian's.

With almost 800 franchise systems and close to 53,000 franchised outlets, the Franchise sector in Australia is considered both large and mature.

Franchising in Australia is well regulated, well educated and highly developed. Australia has more franchising outlets per capita in the world and three times more per capita than in the U.S. thus providing great opportunity for U.S. systems.

For further information relating to this sector or on the different services that the Commercial Service can provide U.S. companies wanting to expand to Australia please contact:

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The data provided in this newsletter is given solely as an information resource and does not imply endorsement by the U.S. Department of Commerce.

Winter 2007

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The Franchise Council of Australia

The Franchise Council of Australia Limited (FCA) is the peak body for the \$128 billion franchise sector in Australia, representing franchisees, franchisors and service providers to the sector. Further details on the Franchise Council of Australia (FCA) can be viewed at www.franchise.org.au.

The Franchising Code of Conduct

The Franchising Code of Conduct provides the most stringent national regulations for franchising introduced anywhere in the world. The Code was primarily introduced to outline the rights and responsibilities of franchisors to franchisees, and includes particular requirements for disclosure of information, the provision of a cooling-off period, and unconscionable conduct. Copies of the Code & Trade Practices Regulations and the "Franchisees Guide to the Franchise Code of Conduct" are available through Commercial Specialist Kate Wilkie, kate.wilkie@mail.doc.gov



Changes to the Franchising Code of Conduct

On 15 August 2007, amendments to the Franchising Code of Conduct were announced by the Federal Minister for Small Business and Tourism. The amendments will come into operation on 1 March 2008. See following page for a brief summary.

The Franchise council of Australia has analyzed the new regulations and can provide you with a detailed analysis for your consideration. Visit www.franchise.org.au



From 1 March 2008, foreign franchisors will only be granted one franchise or master franchise to be operated in Australia.

Showcase your concept at an Australian Franchise Trade Show!

Franchise & Business Opportunities Expo

Participate in the U.S. Commercial Service Catalogue Booth or take a booth yourself! (www.franchisingexpo.com.au)



Melbourne: 12-14 October 2007,
Melbourne Exhibition & Convention Centre
Sydney: 28-30 March 2008,
Sydney Convention & Exhibition Centre
Adelaide: 24-25 May 2008,
Royal Adelaide Showground

*For more information, contact Franchise Specialist
Kate Wilkie.*

International Franchise Expo 2008



**Washington Convention Center
Washington, DC
April 11-13, 2008**

The franchise industry's premier annual event showcasing hundreds of franchise concepts, attracting investors from over 80 countries including Australia. Come and meet the Australian delegation at the show!

For more information, visit www.ifeinfo.com

Changes to Australia's Franchising Code of Conduct:

The following summary of the key changes to the Code is taken from Mason Sier Turnbull Lawyers based in Melbourne.

- *Franchisors must now provide to franchisees either as part of or with their disclosure document, a copy of the franchise agreement in the form it is intended to be executed – thus it is no longer possible to provide an out of date pro forma franchise agreement that may have been in use when the disclosure document was created for the year in question.*
- *All other agreements that a franchisor will require a franchisee to sign as part of the franchise acquisition process must be provided to the franchisee 14 days prior to the signing of the franchise agreement if they are available, otherwise as soon as they become available.*
- *The mandatory statement to appear on the front page of a disclosure document will need to be varied to reflect that upon a franchisee 'cooling-off', a franchisor may retain an amount to cover its reasonable expenses.*



Did you know??

Sales turnover in the franchise sector in 2005 was estimated at \$128 billion.

- *In respect to each key event in item 6.4 of the disclosure document (e.g. transfers, terminations, franchisor buy backs or closures) franchisors must provide details of the location and name of each ex-franchisee if the information is available, unless the ex-franchisee has requested that information not be disclosed.*
- *Franchisors who receive rebates or other financial benefits from suppliers to the network must disclose the name of the party from whom it receives such rebates or financial benefits – amounts do not need to be disclosed.*
- *If the territory or site to be franchised has been previously franchised, the disclosure of details of the franchised business including the circumstances in which the previous franchisee ceased to operate must now be contained in both a separate document and the disclosure document.*
- *Franchisors will no longer be permitted to summarize relevant provisions of their franchise agreement in Items 15, 16 and 17 of their disclosure document. A copy of the franchise agreement must be attached to the disclosure document and references made to the relevant clauses.*

- *The same type of litigation disclosure as is required for franchisors is now required for franchisor directors*
- *Franchisors will be required to disclose the business experience of all officers of franchisor corporate entities. Previously this information was not required in relation to executive officers*

ACCC Releases 'Franchisee Manual'



On August 11, 2007 the Australian Competition and Consumer Commission (ACCC) released a new 'Franchisee Manual'. All franchisors should consider providing a copy of this document to all prospective franchisees to ensure they are well informed. It also helps existing franchisees better understand and comply with the Franchising Code.

- *If a franchisor entity is part of a consolidated entity that is required to provide audited financial reports under the **Corporations Act**, franchisors may need to provide the financial reports of the consolidated entity, if a franchisee requests such reports*
- *Franchisors will now be required to provide to franchisees a copy of the statement of the marketing or co-operative fund detailing all receipts and expenses of the fund for the last financial year. This statement will need to be more detailed and must be prepared and sent to all franchisees within 4 months after the end of the financial year which it relates, irrespective of whether a request is made*
- *All foreign franchisors will now be required to comply with the Franchising Code*
- *Franchisors will be prohibited from inserting into their franchise agreements general waivers regarding written or verbal prior representations*
- *The requirement to give a disclosure document now extends to circumstances where a franchisor wishes to extend the scope of a franchise agreement*

The inevitable disclaimer...

Information in this newsletter is no more than general comment. It is not legal advice and readers should seek out professional legal advice relating to their specific circumstances.

A quick look into the future of the Franchising Sector...



The predictions:

- Annual growth at a rate of 10 per cent for the next 5 years.
- More accountants and lawyers who understand the sector and be better able to advise prospective franchisees.
- As competition intensifies in each market segment, the top players will seek to establish market dominance by acquiring competitors.

Issues facing Franchise Companies in Oz

Recruitment: In 2006, Franchisee Recruitment was identified as the biggest issue facing Franchisors. Recruiting quality franchisees is very competitive and franchisors need to have messages that cut through the clutter. Unemployment in Australia is at a low of 4.6 per cent!

Rent Prices: Occupancy costs, especially those in shopping centers, are rising faster than sales at some sites. Some retailers have walked away from a site – leaving behind a fit-out and effectively losing a business – because lease renewal was too high.



Did you know??



Three out of five Australians have never been shopping online. Australians believe shopping is an enjoyable experience and that there is an atmosphere in the shops that can't be replicated on a computer screen thus preferring to visit a shop.

Further information can be obtained from:

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What Industry Interests Prospective Australian Franchisees...?

A survey of prospective franchisees in Australia has found that they are most interested in the **food industry** (21%). The second most popular choice is **business and financial services** (18%). Other respondents to the survey nominated home services, education and training, printing and telecommunications. The survey suggested there has been a decline in the interest for coffee-based franchises. Industry insiders believe the **health-care sector** will be next!

Service Franchises are the new Franchising Growth Area!

Not just your common services such as cleaning and home maintenance, everything from accounting and educational services to fitness, beauty and recruitment services. Service franchises account for less than a third of the fastest growing franchise systems in Australia. The rapid growth in service franchises can be attributed to:

- an increase in disposable income to spend on personal services,
- reduced leisure time forcing households to outsource domestic tasks (such as gardening, cleaning and pet care),
- shortages in child care and education places,
- a strong housing market which has strengthened demand for building and home-maintenance services, and
- the real-estate boom and the growing need for financial planning among Australia's ageing population leading to a need for financial and insurance services.

Looking for an Australian lawyer or accountant specializing in Franchising?

Check out the directory of our recommended Business Service Providers on our website:
www.buyusa.gov/australia/en/bsp.html